

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

PARKERSBURG DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 6:04-00127-01

KIRT R. KING,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is Defendant Kirt King's Motion to Seal, [ECF No. 921]. On June 22, 2020, Defendant filed a pro se Letter-Form Emergency Motion for Compassionate Release, [ECF No. 916]. On June 30, 2020, Defendant was appointed counsel. [ECF No. 919]. On July 9, 2020, Defendant, through his counsel, filed a Supplemental Emergency Motion Memorandum, [ECF No. 920]. Defendant now requests to file under seal Exhibit C on the ground that the exhibit contains privileged medical information. [ECF No. 921].

Local Rule 26(4)(c) provides that in general, court documents must be public. The Rule specifies that a party petitioning the court to seal exhibits must offer an accompanying memorandum describing,

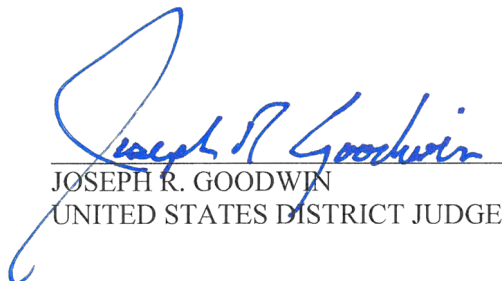
- (a) the reasons why sealing is necessary, including the reasons why alternatives to sealing, such as redaction, are inadequate;
- (b) the requested duration of the proposed seal; and

- (c) a discussion of the propriety of sealing, giving due regard to the parameters of the common law and First Amendment rights of access as interpreted by the Supreme Court and our Court of Appeals.

S.D. W. Va. L. R. 26.4(c). The public has a presumptive right to access to judicial documents at common law and under the First Amendment. *United States v. Moussaoui*, 65 F. App'x 881, 885 (4th Cir. 2003). "The value of openness in judicial proceedings can hardly be overestimated." *Id.* If Defendant intends for me to rely on certain records contained in Exhibit C in my ruling, then the public has a right to review that material. I find that the public right to access, in this case, is not outweighed by Defendant's privacy interest. Not everything contained in Exhibit C, however, should be available to the public. Accordingly, I **GRANT** Defendant's Motion to File Under Seal, [ECF No. 921], but **DIRECT** Defendant to file an unsealed copy of the portions of Exhibit C that he deems relevant and that he relies on in support of his Motion for Compassionate Release, [ECF No. 920]. I further **DIRECT** Defendant to redact any irrelevant, sensitive, or personally identifying information contained in the portions of Exhibit C to be filed on the public record.

The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshall.

ENTER: July 28, 2020


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE